

1070
No. 2858

1 1070
United States
Circuit Court of Appeals
For the Ninth Circuit.

GIN DOCK SUE,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Northern District of California,
First Division.

Filed

JAN 25 1917

F. D. Monckton,
Clerk.

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Circuit Court of Appeals
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys of Record.

JOHN W. PRESTON, Esq., Attorney for Plaintiff
and Appellee.

GEO. A. MCGOWAN, Esq., Attorney for Defendant
and Appellant.

*In the District Court of the United States, in and for
the Northern District of California, Division
No. 1.*

No. 5493.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant.

Praeceptum for Transcript of Record.

To the Clerk of the Above-entitled Court:

Sir: Please make up Transcript of Appeal in the
above-entitled case, to be composed of the following
papers:

- 1st. Original and Amended Complaint.
- 2d. Warrant of Arrest.
- 3d. Return on Warrant of Arrest.
- 4th. Order of Deportation by United States Commissioner, and Opinion Thereon.
- 5th. Notice of Appeal from Commissioner.
- 6th. Transcript of hearing on May 13th, 1915, as
the same has been transcribed and filed in
the court herein, together with copies of all
of the exhibits introduced in evidence, as

shown by the transcript of record in said hearing, including transcript of testimony given before Com. Krull.

- 7th. Judgment affirming order of deportation, and opinion thereon.
- 7½. Stipulation as to ultimate facts appearing from Immigration Record.
- 8th. Stipulation and order regarding statement of case.
- 9th. Notice of appeal.
- 10th. Petition for appeal.
- 11th. Assignment of errors.
- 12th. Order allowing bail.
- 13th. Cost bond on appeal.
- 14th. Citation and copy.
- 15th. Clerk's Certificate.

GEO. A. McGOWAN,
Attorney for Defendant and Appellant.

JNO. W. PRESTON,
Attorney for Plaintiff and Appellee.

Dated January 18th, 1916.

[Endorsed]: Filed Jan. 18, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [1*]

(Chinese Picture.)

Complaint Before Commissioner.

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Before me, Francis Krull, a United States Com-

*Page-number appearing at foot of page of original certified Transcript of Record.

missioner for the Northern District of California, at San Francisco, personally appeared this day W. H. Chadney, who being first duly sworn, deposes and says, that he is an officer of the United States, to wit, an Immigrant Inspector, that one Yung Lung Soo, *alias* Chin Tock Sing, is a Chinese manual laborer and is now within the limits of the Northern District of California, aforesaid, without the Certificate of Residence required by the Act of Congress entitled "An Act to prohibit the coming of Chinese persons into the United States" approved May 5th, 1892, and the Act of Congress approved April 29th, 1902.

WHEREFORE, deponent prays that a warrant for the arrest of the said Yung Lung Soo *alias* Chin Tock Sing be issued, and that he be arrested and brought before the said U. S. Commissioner and upon a hearing being had, that he be duly adjudged to be illegally in the United States, and that the proper order for the deportation of the said Yung Lung Soo *alias* Chin Tock Sing be made and entered.

WILLIAM H. CHADNEY.

Subscribed and sworn to before me, this 18th day of January, 1913.

[Seal]

FRANCIS KRULL,

United States Commissioner as Aforesaid.

I hereby designate Francis Krull, United States Commissioner for the Northern District of California, at San Francisco, before whom Yung Lung Soo *alias* Chin Tock Sing, the Chinese person named in the foregoing complaint, shall be taken for hearing.

J. L. McNAB.

[Endorsed]: Filed January 18th, 1913. Francis Krull, United States Commissioner, North'n Dist. of California. [2]

Certified Copy, Complaint and Warrant.

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Before me, Francis Krull, a United States Commissioner for the Northern District of California at San Francisco, personally appeared this day W. H. Chadney, who being first duly sworn, deposes and says, that he is an officer of the United States, to wit, an Immigrant Inspector, that one Yung Lung Soo, *alias* Chin Tock Sing, is a Chinese manual laborer and is now within the limits of the Northern District of California, aforesaid, without the Certificate of Residence required by the Act of Congress entitled "An Act to prohibit the coming of Chinese persons in the United States," approved May 5th, 1892, and the Act of Congress approved April 29th, 1902.

WHEREFORE, deponent prays that a warrant for the arrest of the said Yung Lung Soo *alias* Chin Tock Sing be issued, and that he be arrested and brought before the said U. S. Commissioner and upon a hearing being had, that he be duly adjudged to be illegally in the United States, and that the proper order for the deportation of the said Yung Lung Soo *alias* Chin Tock Sing be made and entered.

WILLIAM H. CHADNEY.

Subscribed and sworn to before me, this 18th day of January, 1913.

[Seal]

FRANCIS KRULL,

United States Commissioner as Aforesaid.

I hereby designate Francis Krull, United States Commissioner for the Northern District of California, at San Francisco, before whom Yung Lung Soo *alias* Chin Tock Sing, the Chinese person named in the foregoing complaint, shall be taken for hearing.

J. L. McNAB.

[Endorsed]: Filed January 18th, 1913. Francis Krull, United States Commissioner, North'n Dist. of California. [3]

Warrant.

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

The President of the United States of America, to the Marshal of the United States for the Northern District of California, and to His Deputies, or Any or Either of Them, GREETING:

INFORMATION on oath having this day been laid before me by W. H. Chadney that the crime of Violating Act of May 5th, 1892, etc., as alleged in the certified copy of the "Affidavit of Complaint," hereto prefixed and hereby referred to and made a part hereof, has been committed, and accusing Yung Lung Soo *alias* Chin Tock Sing thereof, you are therefore commanded, in the name of the President

of the United States of America, to arrest the above named person and take him before me, or the nearest United States Commissioner, or the nearest Judicial Officer having jurisdiction under existing laws for a hearing, commitment, or taking bail for trial, that he may then and there be dealt with according to law, for the said offense.

GIVEN under my hand and official seal, at my office in the city and county of San Francisco, in the District aforesaid, this 18th day of January, A. D. 1913.

[Seal] FRANCIS KRULL,
United States Commissioner, for the Northern District of California, at San Francisco.

Marshal's Return.

In obedience to the above Warrant I have the body of Yung Lung Soo *alias* Chin Tock Sing, before Hon. Francis Krull, U. S. Commissioner, at San Francisco, this 20th day of January, 1913. Defendant arrested at San Francisco, Cal., Jan. 20, 1913.

C. T. ELLIOTT,
U. S. Marshal.

[Endorsed]: Filed January 20th, 1913. Francis Krull, United States Commissioner, Northn. Dist. of California. [4]

Amended Complaint Before Commissioner.

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Before me, Francis Krull, a United States Com-

missioner for the Northern District of California at San Francisco, personally appeared this day Chas. D. Mayer, who being first duly sworn, deposes and says, that he is an officer of the United States, to wit, Immigrant Inspector; that one Yeung Lung Soo *alias* Gin Dock Sue, is a Chinese person who arrived at the port of San Francisco from China on the SS. "Korea" July 14, 1908, ticket No. 51, applying for admission to the United States as a returning domiciled merchant; that said Yeung Lung Soo *alias* Gin Dock Sue was denied admission into the United States on August 26, 1908, by the Commissioner of Immigration at the port of San Francisco, whose adverse decision was affirmed on appeal on October 1, 1908, by the Secretary of Commerce and Labor; that on November 4, 1908, an application was made by the attorneys of said Yeung Lung Soo *alias* Gin Dock Sue, to said Commissioner of Immigration for a rehearing of this case, which application was denied by said Commissioner of Immigration on December 8, 1908, which left said Yeung Lung Soo, *alias* Gin Dock Sue, subject to deportation to China under the law, by the said Commissioner of Immigration; that on November 28, 1908, said Yeung Lung Soo, *alias* Gin Dock Sue, escaped from the custody of said Commissioner of Immigration and has never since his said arrival at the port of San Francisco from China on July 14, 1908, been adjudicated admissible into the United States by any Immigration official, by the Secretary of Commerce and Labor or by the Secretary of Labor; that said Yeung Lung Soo *alias* Gin Dock Sue, is within the United States in violation of the Chinese Exclusion Acts,

particular reference being [5] had to the Act of May 6, 1882, as amended by the Act of July 3, 1884, to the Act of Sept. 13, 1888, and to the Act of April 29, 1902, as amended and re-enacted by the Act of April 27, 1904.

WHEREFORE, deponent prays that a warrant for the arrest of the said Yeung Lung Soo, *alias* Gin Dock Sue, be issued, and that he be arrested and brought before the said U. S. Commissioner and upon a hearing being had, that he be duly adjudged to be illegally in the United States, and that the proper order for the deportation of the said Yeung Lung Soo, *alias* Gin Dock Sue, be made and entered.

Subscribed and sworn to before me, this 18th day of March, 1914.

CHAS. D. MAYER.

FRANCIS KRULL,

United States Commissioner as aforesaid.

I hereby designate Francis Krull, United States Commissioner for the Northern District of California, at San Francisco, before whom Yeung Lung Soo, *alias* Gin Dock Sue, the Chinese person named in the foregoing complaint shall be taken for hearing.

WALTER E. HETTMAN,

Asst. United States Attorney. [6]

Opinion U. S. Commissioner.

UNITED STATES,

vs.

CHIN DOCK.

#315.

From the facts in this case it appears that the defendant Chin Dock, *alias*, etc., is a Chinese person

'and that he came to this port on board the steamship "Korea," July 14, 1908, and after due examination by the proper officers was denied a landing, there-upon and pending the return of said defendant to the port whence he came, said defendant escaped from detention.

It further appears from the evidence that said defendant is a merchant and has been such for the two years last past, and is also an officer in a local Chinese benevolent society, whose officers appear to be entitled to certain privileges as such in passing to and from the United States.

It is contended by the Government that the defendant is illegally in the United States and subject to deportation under the Chinese exclusion laws.

I am of opinion that a Chinese person must submit to the exclusion laws when coming into the United States, and if he evades the law and his entry is illegal, he is subject to deportation. It is the province of the Department having the determination of the entry to first pass upon his right to come to the United States. Although he may have gained a status subsequent to his illegal entry that would entitle him to be and remain here, this cannot cure the illegal entry and his violation of the exclusion laws, subject him to the penalty of deportation. As was said in the case of *Ex parte Li Dick*, 174 Fed. 674: "Legally he is here in violation of law, and, so far as he is concerned or can be heard to say, he is found unlawfully here. He has no right to be here as he did not comply with the statutes and rules governing the entry of domiciled Chinese merchants, and

until he has done that at the proper time and place his right to be here as such merchant is suspended. He [7] cannot now be allowed to plead or assert that right as a bar to deportation, even if he might assert it at the proper time and place and in a proper manner. * * * He did not have the right to come and go freely, and his case is not like that of a citizen of the United States arrested for having come in illegally on the supposition he was an alien.”

I do not think the defendant is an official of the Government of China within the meaning of the statutes so as to entitle him to absolute exemption from the provisions of the exclusion laws.

I am also of opinion that section 20 of the General Immigration Laws and Regulations, which fixes a limit of time for deportation, does not apply in this case.

FRANCIS KRULL,
United States Commissioner, Northern District of
California, at San Francisco. [8]

Before FRANCIS KRULL, United States Commissioner for the Northern District of California, at San Francisco.

#315.

THE UNITED STATES OF AMERICA

vs.

GIN TUCK, *alias* YEUNG LUNG SOO, and GIN
DOCK SUE.

**Findings, Judgment and Order of Deportation, U. S.
Commissioner.**

A Complaint verified by the oath of William H. Chadney and Charles D. Mayer, Immigrant Inspectors, having been filed before me, the undersigned United States Commissioner, charging the above named Gin Tuck, *alias*, etc., with a violation of the Act of Congress of the United States entitled "An Act to Prohibit the coming of Chinese persons into the United States," approved May 5th, 1892, and of the Act amendatory thereof approved November 3d, 1893, and the Act of Congress, approved April 29th, 1902, and a warrant for the arrest of the said defendant, having been issued by me thereon and the said defendant having been duly apprehended upon the said warrant by the United States Marshal for the Northern District of California, and brought before me for hearing upon said charge (the United States Attorney for the Northern District of California having duly designated me as the United States Commissioner before whom said defendant should be taken for hearing), now on this 23d day of May, 1914, the said defendant being present in person with George A. McGowan, Esq., his attorney, and W. E. Hettman, Esq., Assistant United States Attorney, appearing for the United States, and this cause having been duly heard and submitted, and due consideration having been thereon had, I do find as follows:
[9]

That defendant Gin Tuck, *alias*, etc., was born in China, and is a subject of the Chinese Empire; that

he arrived at the port of San Francisco from China on the S. S. "Korea" July 14, 1908, that he applied for admission into the United States as a returning domiciled merchant; that he was denied admission into the United States on August 26, 1908, by the Commissioner of Immigration at the port of San Francisco; that said adverse decision was affirmed on appeal on October 1, 1908, by the Secretary of Commerce and Labor; that on November 28, 1908, said defendant escaped from the custody of said Commissioner of Immigration; that on December 8, 1908, an application on behalf of said defendant for a rehearing was denied; that said defendant has not since his arrival at the port of San Francisco from China on July 14, 1908, been regularly admitted into the United States by any Immigration official, by the Secretary of Commerce and Labor or by the Secretary of Labor;

As a conclusion from the foregoing, I find that the defendant Gin Tuck *alias*, etc., is not entitled to remain in the United States by reason of a mercantile status, and that he is not lawfully entitled to be and remain therein.

It is Therefore, Ordered, Adjudged and Decreed, that the said defendant Gin Tuck, *alias*, etc., be deported from the United States to the Country whence he came, to wit, China, and it is further ordered that said defendant Gin Tuck *alias*, etc., be committed to the custody of the United States Marshal for the Northern District of California, to execute the judgment of deportation herein.

WITNESS my hand at my office in the city and

county of San Francisco, in the District aforesaid, this 23d day of May, 1914.

[Seal] FRANCIS KRULL,
United States Commissioner for the Northern District of California, at San Francisco. [10]

[Endorsed]: Filed May 26, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [11]

Before Honorable FRANCIS KRULL, United States Commissioner, in and for the Northern District of the State of California.

No. 315.

UNITED STATES OF AMERICA,
Plaintiff,
vs.

YEUNG LUNG SOO, Who Gives His True Name as
GIN DOCK SUE,
Defendant.

Notice of Appeal from the United States Commissioner's Order of Deportation.

To the United States Commissioner Above Named and to JOHN W. PRESTON, U. S. Attorney for the Northern District of California:

You and each of you will please take notice that the defendant above named does hereby appeal from the order of deportation made and entered in the above-entitled matter on the 23d day of May, A. D. 1914, to the District Judge or to the United States District Court, in and for the Northern District of the State of California, and further that the said appeal

will be based upon both questions of law and questions of fact.

It is further requested by the said defendant that the Honorable Commissioner herein certify to the said Judge of the said Court the complaint upon which the defendant was tried, the warrant of arrest, the opinion of the Commissioner and the judgement; the order of deportation made and entered herein and the bond given for the appearance of the defendant.

Dated at San Francisco, California, May 23d, 1914.

GEO. A. McGOWAN,

Attorney for Defendant.

Service of the within Notice is hereby admitted this 23d day of May, A. D. 1914. San Francisco, California.

WALTER E. HETTMAN,

Asst. United States Attorney.

[Endorsed]: Filed May 23, 1914. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [12]

*In the District Court of the United States, in and for
the Northern District of California.*

Before FRANCIS KRULL, United States
Commissioner.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHIN DOCK SUE,

Defendant.

Proceedings Had March 27, 1914.

**TRANSCRIPT OF TESTIMONY TAKEN
BEFORE COMMISSIONER.**

March 27, 1914.

APPEARANCES:

For the United States: WALTER HETTMAN, Esq.

For the Defendant: GEORGE McGOWAN, Esq.

Testimony of K. Ow Yang, for Defendant.

K. OW YANG, called for the defendant, sworn.

Mr. McGOWAN.—Q. You are the Chinese Consul General for the port and district of San Francisco?

A. Yes.

Q. Do you know the defendant in this matter, Chin Dock Sue? A. I know him.

Q. What is his occupation?

A. He is secretary of the Ning Yung Association, and attached to the Chinese Consulate.

Q. He is a Chinese official? A. Yes.

Q. How long has he been such?

A. I know him since he took it this last November.

The COMMISSIONER.—Q. He is now attached to the consular service, is he? A. Yes. [13]

Cross-examination.

Mr. HETTMAN.—Q. By whom was he appointed as such official?

A. He was selected by the Ning Yung Association.

Q. Was he appointed in any way through the Chinese Government, itself?

A. Well, we have an advisory board of the Chinese consul and all the members of the different associa-

(Testimony of K. Ow Yang.)

tions assist our Chinese Consul in the work.

The COMMISSIONER.—His appointment comes through what, some association here? A. Yes.

Mr. HETTMAN.—Q. What is his official capacity, what is his title?

A. He is secretary of the Ning Yung Association, and he does work for the Chinese Consul at any time we have conferences of any kind.

Q. Did he get any papers or any certificate from the Chinese Government stating that he was a Chinese official?

A. Why, every time a new man is selected to come here, he gets his passport from the Minister in Washington to get in here.

Mr. McGOWAN.—Q. These men are all landed as Chinese officials at this port? A. Yes.

Q. Right from the steamer? A. Yes.

Q. Without any requirements being met as to the immigration law?

A. Yes, they are always taken as officials.

Mr. HETTMAN.—Q. His appointment was since November, 1913, is that it? A. Yes.

Q. In November, 1913? A. This last year.

Q. He never held any such official position prior to that time, to your knowledge? A. No.

Q. Should this man have a certificate of any sort from the Chinese Government showing that he is such an official?

A. All the presidents of such association come from China, but [14] the secretary of such asso-

(Testimony of K. Ow Yang.)

ciation, they usually pick up a man who speaks English for that, one who knows English; a man of that kind is generally selected in this country, because we want a man who knows English. The presidents always come from China.

Q. He has no credentials or anything from the Chinese Government?

A. No; but of course, in case he should come from China, the Chinese Government, the Minister in Washington, would issue him a passport.

Q. Then as I understand it, he is secretary for an association in San Francisco, who may do some work for the Chinese Consul if he sees fit to have any work done? A. Yes.

Mr. McGOWAN.—He is a member of the advisory board of the consul? A. Yes.

Testimony of Gee Sam, for Defendant.

GEE SAM, called for the defendant, sworn.

Mr. McGOWAN.—Q. You are the secretary of the Chinese Six Companies? A. Yes.

Q. Do you know this defendant? A. Yes.

Q. What is his occupation?

A. He is secretary of the Ning Yung Association.

Q. This gentleman seated here, who is he?

A. He is the president of the Ning Yung Association.

Cross-examination.

Mr. HETTMAN.—Q. What is the Ning Yung Association?

A. The Ning Yung Association is one of the associations of the Chinese benevolent associations.

(Testimony of Gee Sam.)

Q. How long has the Ning Yung Association been in existence?

A. Well, I could not give you the date, but I think it is 50 or 60 years. [15]

Mr. McGOWAN.—Q. The Ning Yung Association is composed of all of the Chinese living in this country who came from Ning Yung province in China, is it not? A. Yes.

Mr. HETTMAN.—That is a benevolent association, isn't it? A. Yes.

Q. How long has this man been a member of it?

A. This defendant?

Q. Yes. A. Since November, 1913.

Mr. McGOWAN.—You mean an officer?

Mr. HETTMAN.—Yes, an officer; it don't make any difference.

Testimony of Newton G. Cohn, for Defendant.

NEWTON G. COHN, called for the defendant, sworn.

Mr. McGOWAN.—Q. You know the defendant in this matter? A. Yes.

Q. How long have you known him?

A. I have known him about two years.

Q. What is his present occupation?

A. He is a merchant connected with Chung Lung Jan Company, 827 Grant Avenue.

Q. How long have you known him as a member of that firm? A. About two years.

Q. During that time, has he engaged in the per-

(Testimony of Newton G. Cohn.)

formance of any manual labor of any sort or description?

A. No manual labor. I have known him also as secretary of the Ning Yung Association, of which we are the agents.

Q. Now, do you know that he has been a member of this company, a merchant during that length of time? A. Yes.

Cross-examination.

Mr. HETTMAN.—Q. Did you know the defendant prior to the year 1908? A. No, I did not.

Q. Did you ever know of his having any mercantile status prior to [16] two years ago?

A. No, I could not say that I have.

Q. How long have you known him altogether?

A. About two years.

Q. Can you state of your own knowledge whether he was in San Francisco continuously for the last two years? A. Well, I think he was, off and on.

Q. How often did you see him?

A. I have seen him on an average of about once every week, and sometimes oftener; he is connected with this store, and we are the agents for the building of which they are the tenant, and in going into the store, he pays us the rent for certain rooms in that building.

Q. Have you ever testified for any Chinese people before? A. Yes.

Q. How recently? A. About a month ago.

Q. Over at the immigration station? A. Yes.

(Testimony of Newton G. Cohn.)

Q. Ever been up here before to testify?

A. I don't know—I think on one occasion.

Q. How long ago?

A. Possibly a year or a year and a half ago.

Q. How many cases have you testified in in the last year? A. In this court?

Q. In all courts, in Chinese cases?

A. I could not say, about ten or twelve, possibly.

Mr. McGOWAN.—Q. Mr. Cohn, you are in the real estate business, handling Chinatown properties?

A. Exclusively, since the fire.

Testimony of L. C. Tamm, for Defendant.

L. C. TAMM, called for the defendant, sworn.

Mr. McGOWAN.—Q. What is your occupation, Mr. Tamm? A. Real estate and insurance.

Q. Do you know the defendant Chin Dock Sue?

A. I do.

Q. How long have you known him?

A. For possibly over two years. [17]

Q. What is his occupation?

A. He is a merchant.

Q. What firm is he a member of?

A. Chung Lung Jan Company.

Q. Where is their place of business?

A. Dupont Street.

Q. How long has he been so engaged, to your knowledge?

A. Previous to my being connected with the real estate business, I don't know how long it was, but to my knowledge it was possibly over two years.

(Testimony of L. C. Tamm.)

Q. During that time, has he engaged in the performance of any manual labor?

A. Not that I know of.

Cross-examination.

Mr. HETTMAN.—Q. Did you ever know this man in the year 1908, or prior thereto?

A. No. I became connected with the real estate business 2½ years ago.

Q. You never knew him at all prior to 1908?

A. No.

Q. You have only known him within the last two years? A. Or over.

Q. How often did you see him at his place of business within the last two years?

A. I attended to collecting in the Chinatown district, and also fire insurance, and I have seen him several times on fire insurance, and finally had the premium from him.

Q. What business were you dealing in with him?

A. It was insurance.

Q. He paid you; he paid the money to you?

A. Well, he hasn't exactly paid yet, because the insurance was not carried long enough to be paid.

Q. He made the contract?

A. He did; he submitted it to his manager, Soo Hoo Fong.

Q. How often have you seen him in that store within the last two years; how many times altogether? A. Many times.

Q. How many?

(Testimony of L. C. Tamm.)

A. Well, I suppose I would drop in once a week or sometimes two or three times a month; I am right there in [18] Chinatown.

Q. When was the last time you saw him in that store?

A. A few days ago, possibly a week or so.

Q. What was the last time before that?

A. Well, it might have been a week before that. I am passing every day through Chinatown; we have collecting in that block.

Testimony of Wong Lung Moon, for Defendant.

WONG LUNG MOON, called for the defendant, sworn.

Mr. McGOWAN.—Q. What is your occupation?

A. Dupont Street.

Q. What is your business? A. Merchant.

Q. What is the name of your firm?

A. Chung Lung Jan Company.

Q. Where is its place of business?

A. Grant Avenue.

Q. What number? A. 827.

Q. What is your position in that store?

A. Manager of the store.

Q. Do you know the defendant, Chin Dock Sue?

A. Yes.

Q. What is his occupation?

A. He is a member of the firm.

Q. Does his name appear on your partnership list as a partner? A. Yes.

Q. You have the list there? A. Yes.

Testimony of K. Ow Yang, for Defendant (Recalled).

K. OW YANG, recalled for defendant.

Mr. McGOWAN.—Q. I show you a certificate and ask you what that is?

A. This is a passport given by the minister to one of the presidents of the Ning Yung Association to come here from China.

Q. That is issued by the Chinese Minister at Washington? A. At Washington, yes.

The COMMISSIONER.—That does not relate to this man.

Mr. McGOWAN.—That is Lee Yung Bing?

A. Yes.

The COMMISSIONER.—Has he been a witness here?

Mr. McGOWAN.—No. [19]

Q. He is at the present time the President of the Ning Yung Association? A. Yes.

Q. Now, then, if this defendant were coming from China to be landed here as secretary of the Ning Yung Company, he would have a certificate issued to him just like that? A. Yes.

Q. Describing him as the secretary, instead of the president? A. Yes.

Q. Where the president of one of these companies is appointed here, does not come from China, does he have one of these issued to him? A. No.

Mr. HETTMAN.—Q. Did the Minister of China appoint the defendant here, as secretary of this association? A. No.

(Testimony of K. Ow Yang.)

Q. All this refers to is some other man whose passport you have here, signed by the minister of China, for a man by the name of Lee Yung Bing?

A. Yes.

Q. Has nothing to do with this defendant, here?

A. No.

Mr. McGOWAN.—Q. How are the presidents of this company selected?

A. They are selected by—

Mr. HETTMAN.—We object to this.

The COMMISSIONER.—It is not very relevant, but I want to hear all that bears upon the question.

Q. How are the presidents selected?

A. They are selected by the people of the association.

Q. And then the Chinese minister simply confirms the person that has been selected?

A. Yes, sanctions his selection. [20]

Testimony of Charles B. Mayer, for the Government.

CHARLES B. MAYER, called for the United States, sworn.

Mr. HETTMAN.—Q. Mr. Mayer, I want to show you a paper marked for identification and ask you if you can identify the signature there on this document. A. I can.

Q. I ask you to read the foregoing statement here to that signature.

The COMMISSIONER.—What is it, a certificate?

Mr. HETTMAN.—A certificate. I would like to have that read in evidence. It reads, “I Samuel W.

(Testimony of Charles B. Mayer.)

Backus, the duly appointed, qualified and acting Commissioner of Immigration and officer of the United States in charge of the enforcement of the laws pertaining to the admission of Chinese at the port of San Francisco, State of California, and the custodian of the records concerning the admission, and applications for admission of all classes of Chinese persons and persons of Chinese descent made at said port, hereby certify that attached hereto is a complete record covering the arrival at this port on July 14, 1908, of Yung Lung Soo who applied for admission as a returning domiciled merchant holding ticket No. 51, and whose application for admission as such merchant was denied on August 26, 1908, and who escaped from detention on November 28th, 1908, the same being a part of the official records in my custody.

“In witness whereof I have hereunto subscribed my name and affixed the seal of my office this 26th day of March, 1914. Samuel W. Backus, Commissioner of Immigration.”

Q. That is his signature and seal? A. Yes.

Q. The seal of his department? A. Yes.

Q. That record was given into your custody to bring here to-day, was it? [21] A. Yes, sir.

Q. I will ask you if to your knowledge that is a record certified by Samuel W. Backus? A. Yes.

Mr. HETTMAN.—I would like to offer that record in evidence at this time.

Mr. McGOWAN.—That is objected to upon the ground that the record is incompetent for said pur-

(Testimony of Charles B. Mayer.)

poses, that is to show that this man arrived, to show what the ultimate disposition of his case was; as to those matters we have no dispute; we are not contesting them; but the admissibility of all this testimony in there is seriously questioned; it has no place properly before your Honor. Your Honor cannot repair the issue before the Commissioner. Things contained in that record are not evidence and have no place before the Court. The only thing which the Government is entitled to show is that this defendant arrived at that time, that he was denied admission and that he escaped.

Mr. HETTMAN.—Are those facts admitted?

Mr. McGOWAN.—Those facts the defendant is willing to admit.

Mr. HETTMAN.—This record is submitted simply for what it is worth, and if the Court sees fit not to regard the record the Court can do so.

The COMMISSIONER.—Does the record show he was refused landing, or had his case been passed upon?

Mr. MAYER.—It has been passed upon.

The COMMISSIONER.—Had he been refused landing?

A. Yes, he had been refused landing and pending his return to China he escaped.

The COMMISSIONER.—If that fact is admitted, that is all you have got to present here, because I cannot review the record of the conclusions that the Department came to. The [22] fact that he came

(Testimony of Charles B. Mayer.)

here and that he was refused landing and that pending his return to China under that refusal to land him he escaped are the only facts really that can be proved before me, and if those facts are sufficient under the law to show that he is here and not entitled to be and remain here, then my judgment would have to be accordingly.

Mr. HETTMAN.—We simply submit this record to corroborate the statement of the witness.

The COMMISSIONER.—I will only consider the ultimate facts as admitted here. I am not going into this Chinese record here.

Mr. McGOWAN.—Q. Is it a fact that an application for rehearing was made in this case and was pending and being investigated at the time, but not denied by the Commissioner at the time this man escaped? A. It was not denied at the time.

Q. It was subsequently denied?

A. It was subsequently denied, but the application for a rehearing was not denied before the man escaped.

Q. It was denied afterwards? A. Yes.

Testimony of Chin Dock Sue, for Defendant.

CHIN DOCK SUE, called for the defendant, sworn.

Mr. McGOWAN.—Q. When did you first enter the United States? A. Kwong Sue 7 (1881).

Q. Did you procure a certificate of residence under the terms of the Chinese Immigration Act?

A. Yes.

(Testimony of Chin Dock Sue.)

Q. Have you that certificate?

A. Yes, I have it.

Q. Have you got it with you?

A. No, I have not got it now.

Q. Are you married? A. Yes.

Q. Have you a wife living in this country?

A. Yes.

Q. What was her name? A. Chin See. [23]

Q. Where did she reside? A. Los Angeles.

Mr. McGOWAN.—I will bring the certificate afterwards and present it to the Court.

Testimony of W. T. Boyce, for the Government.

W. T. BOYCE, called for the United States, sworn.

Mr. HETTMAN.—Q. Mr. Boyce, you are connected with the Immigration Bureau of San Francisco? A. Yes.

Q. In what capacity?

A. I am in charge of the detention and deportation.

Q. Have been for how many years?

A. Well, the detention division probably for 15 years.

Q. You were in that position in 1908? A. Yes.

Q. You have charge of aliens who are about to be deported or who are held in detention? A. Yes.

Q. Do you keep a careful memorandum of those who escape?

A. I did at that time, until the system had been changed.

Q. At that time did you note the escapes in the

(Testimony of W. T. Boyce.)

year 1908? A. Yes.

Q. Can you refer to the date—

The COMMISSIONER.—Mr. Hettman, it has been admitted that he escaped. What do you want to prove in relation to that?

Mr. HETTMAN.—I want to show by certain evidence that he has in regard to that.

Q. I ask you to refer to your memorandum in November, 1908, and ask if you have any Chinese there escaping on that day?

Mr. McGOWAN.—That is objected to as immaterial, irrelevant and incompetent. It is admitted that this defendant was an applicant for admission and that he escaped. That is an admitted fact in the case. [24]

The COMMISSIONER.—He can answer that question.

Mr. HETTMAN.—Q. What name have you there as escaping on that day?

A. I have quite a number of them.

The COMMISSIONER.—Q. Have you the name of this man as having escaped on that day?

A. What name?

Q. Chin Dock Sue?

A. I have a man, Yung Lung Soo, designated as ticket No. 51 on the steamer "Korea" of July 14, 1908.

Mr. HETTMAN.—Q. You have had occasion to pass upon photographs every day in your work, have you not? A. Yes.

Q. I will show you a photograph here in this rec-

(Testimony of W. T. Boyce.)

ord, and ask you if that is the photograph of this man here? It is on page 67 of this record.

A. I will pass on it as being this man.

The COMMISSIONER.—You would say it was the same man, would you? A. Yes. [25]

April 2d, 1914.

Testimony of Chin Dock Soo, for Defendant.

CHIN DOCK SOO, the defendant.

Mr. McGOWAN.—Q. You testified when you were last under examination that you had a certificate of registration? A. Yes.

Q. Have you that certificate with you? A. Yes.

Q. Produce it? A. There it is.

Mr. McGOWAN.—The defendant produces certificate of residence No. 141,274, issued to Gin Soo, person other than a laborer, Los Angeles, California, local residence, No. 38 Marchesault Street, Los Angeles, California, occupation, pawn broker, to which is annexed a photograph of the person to whom the certificate is issued. This is a duplicate certificate issued by John C. Lynch, Collector of Internal Revenue, on the 23d of January, 1900, issued in lieu of the original certificates Nos. 82,541 and 138,680, lost; proof of said loss now on file in this office, signed "John C. Lynch, Collector."

Q. Is the photograph annexed to that certificate a likeness of yours? A. Yes.

Mr. HETTMAN.—This is a duplicate issued to him?

Mr. McGOWAN.—In lieu of the one that was lost, in 1900.

(Testimony of Chin Dock Soo.)

Mr. HETTMAN.—Q. When did you get your first certificate of residence?

A. The first one, Los Angeles.

Q. I mean what date?

A. I have forgotten the date. In the Custom House they lost my certificate and they made this new one for me.

The COMMISSIONER.—You think this is the same man?

Mr. McGOWAN.—Oh yes, Gin Soo. It is sometimes spelled Chin. [26]

The COMMISSIONER.—Why didn't he produce this certificate on his attempt to re-enter here?

Mr. McGOWAN.—He did not want to do it.

Q. Did you, after the issuance of this certificate make application to go to China as a Chinese laborer?

A. Yes.

Q. I show you this paper and ask you if that is a copy of that application? A. Yes, sir.

Q. That is your photograph attached thereto?

A. Yes.

Mr. McGOWAN.—This is an application for the issuance of a laborer's return certificate by Gin Soo, filed on January 21, 1903, by William A. Waters, Deputy Collector.

Q. Who is Mr. Waters? Is that the Deputy Collector of Customs at Los Angeles—at that time?

A. Yes.

Q. Did you go to China as a laborer on that certificate? A. They would not let me go.

Q. Who would not let you go?

(Testimony of Chin Dock Soo.)

A. The Chinese Inspector, Mr. Putnam. He O. K.'d the paper, and when I came to San Francisco he refused me to go; he said my occupation was a pawn broker; at San Francisco they refused to let me go because my certificate of residence was as a pawn broker.

Q. In other words, they at that time held that a pawn broker was a merchant and not a laborer?

A. Yes.

Q. Then you afterwards returned to Los Angeles?

A. Yes.

Q. And then made application to go to China as a merchant? A. Yes.

Q. How long were you gone out of the United States on that trip to China? A. About a year.

Q. From the time you left Honolulu until your return to Honolulu, was that less than a year?

A. Yes.

The COMMISSIONER.—The defendant was denied the right to go on this certificate here. [27]

Mr. McGOWAN.—Because they held it was a merchant and not a laborer. Then he departed as a merchant without prior investigation and upon his return after an absence of I think it is six days less than a year from the United States, that is, deducting the time that it takes to go from San Francisco to Honolulu. Then his application to land was denied and he appealed and the appeal was dismissed. A rehearing was asked for, and while it was under consideration he escaped. After that the Commissioner of Immigration denied the application for rehearing. [28]

[Endorsed]: No. 5493. U. S. vs. Chin Dock Sue, Deft. Exhibit No. "A." Filed May 13, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk.
[29]

*In the District Court of the United States in and for
the Northern District of California, First Division.*

Before Hon. MAURICE T. DOOLING, Judge.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHIN DOCK SUE,

Defendant.

Proceedings Had May 13, 1915.

TRANSCRIPT OF TESTIMONY TAKEN IN
OPEN COURT.

Thursday, May 13, 1915.

Counsel Appearing:

For the United States: WALTER HETTMAN, Esq.

For the Defendant: GEORGE MCGOWAN, Esq.

Mr. HETTMAN.—I think there is only one point of law involved here, and that is the question of whether or not an alien coming in illegally can gain a mercantile status. If the defendant's attorney stipulates as to the facts, I would be willing to write a brief as to the point of law. Probably it would do away with a great deal of argument and unnecessary proceedings before your Honor.

Mr. MCGOWAN.—The facts, if your Honor

please, are quite fully developed in the testimony taken before the Commissioner, and the testimony has been transcribed; I understand it is the purpose of the Government to stipulate with respect to the facts as set forth in the transcript; that is perfectly satisfactory to the defendant. I would ask to file this transcript. I also desire to introduce into evidence the certificate of residence of the defendant Gin Soo, [30] No, 141,274.

Mr. HETTMAN.—Mr. McGowan, that is already in evidence, is it not? If all the papers come up these are exhibits, are they not? We have simply to stipulate that the entire record may come up in its original form.

Mr. McGOWAN.—There is a question with respect to that, and that is a ruling of the Commissioner on the admissibility of the immigration record, which you have presented. The defendant had no objection to the admission of the ultimate facts shown from this record, that is, that the defendant did go to China at a certain time, that he did return at a certain time, that his application to land was denied, that an appeal was taken from that adverse decision, that the appeal was dismissed, that a rehearing was asked for, was entertained, and during the consideration of it there was an escape from the Mail Dock detention shed at which 19 different Chinese escaped, this defendant being one of them, and after the escape the rehearing was denied by the Commissioner. There is no objection to those ultimate facts appearing in the record, but we object to the introduction of the record itself in evidence, con-

taining a lot of prejudicial matter from enemies of this man in Los Angeles. We object to these facts appearing in the record, because if the Government desires to put that kind of evidence in this record, they should have those witnesses here. When that matter was presented to the Commissioner, his ruling upon it was to this effect:

“If that fact is admitted, that is all you have got to present here, because I cannot review the record or the conclusions that the department came to. The fact that he came here and that he was refused landing, and that pending his return to China under that refusal to land him he escaped, are the only facts really that can be proved before me, and if those facts are sufficient under the law to show that he is here and not entitled to be and remain here, [31] then my judgment would have to be accordingly.” As to the existence of those ultimate facts, we do not dispute them.

The certificate of residence I have presented. I also desire to present the application for a laborer's return certificate on behalf of this defendant, Gin Soo, which is mentioned in the transcript also. I ask that that be marked an exhibit.

I also desire to introduce in evidence, or rather, to read in evidence for the purpose of the record, the latter part of Decision No. 10 of the Department of Commerce and Labor, issued on January 23, 1914—that part of the decision which is upon page 3 and which covers a point raised upon behalf of the defendant in this matter:

“It seems proper in this connection to direct at-

tention also to the last paragraph of page 2 of your letter of the 6th instant, transmitting the case of Chu Kin to the department, which paragraph reads as follows:

‘It may be stated, as a matter of regret, however, that he (appellant) failed to have his case investigated prior to departure, since such an investigation must have disclosed not only the fact that he was not a merchant, but that he possessed “property” in the islands of more than sufficient value to entitle him to a “laborer’s return permit.”’

“ ‘Upon this subject your attention is directed to the opinion of the Solicitor of the Treasury (T. D. No. 23,525) of February 17, 1902, in which he held that a Chinaman registered as “a person other than a laborer”—as Chu Kin was—and who after such registration becomes a laborer, is not entitled to the issuance of a laborer’s return certificate.

‘Respectfully,

‘GEO. B. CORTELYOU,

‘Secretary.

‘JOSHUA K. BROWN, [32]

‘Chinese Inspector in Charge, Honolulu T. H.’ ”

There is one other certificate mentioned in the testimony which I will have to procure. I do not know that I can obtain it for the purpose of filing, but I will bring it and have it read so that the stenographer can take it down—that is, the certificate of the Chinese official that was presented before the Commissioner, for the purpose of getting it before the Court.

Mr. HETTMAN.—This certificate that you refer

to, Mr. McGowan, it developed before the Commissioner that this defendant claimed to be an officer of a certain Benevolent Society, and that this gave him an exempt status because some Chinese Consul here in San Francisco had appointed him. We have shown, however, that he was simply the secretary of this Benevolent Society, and that did not give him any exempt status, and it was subsequent to the order of deportation. He was simply in this capacity of secretary of whatever it was; now, that is in the record, that is admitted, and we do not see any necessity for the filing of any such certificate, and I do not remember that any particular certificate on behalf of the secretary, is here in evidence, or was produced at the time of the hearing before the Commissioner.

Mr. McGOWAN.—The purpose of it, if the Court please, is this: The Chinese Exclusion Laws contain the provision that those exclusion laws shall not apply to Chinese officials, diplomatic officials and consular officials, and their attaches, their servants, or those connected with them; and whatever their capacity is, the language of the statute is sufficiently broad that it gives them a complete exemption from the law. This defendant was charged with being in the United States without a certificate of registration. He has the certificate of registration, and it was presented. The Government then filed, I believe, one subsequent complaint making two [33] complaints against the defendant; the last complaint against the defendant charges that he is a Chinese laborer, that he has no right to be and remain in the

United States. This defendant was an official of the Chinese Government at the time this last complaint was sworn to; he was not such an official at the time the first complaint was sworn to. The nature of his official position is this: The Chinese Government maintains in San Francisco what is known in English as the Chinese Six Companies. These Six Companies correspond to the six provinces in China, that the different Chinese in this country originally migrated from, that is, those who originally came here. These Six Companies correspond to the geographical divisions. To settle their affairs in this country, they have these Six Companies, which sit as a sort of a court of voluntary arbitration, in one sense, to settle all of the affairs, in which the Chinese are interested on one side or the other; that is, it is not compulsory. If the Chinese want to resort to our American courts or institutions, they have that right, of course, but they have felt a great confidence in their being able to settle their own affairs among themselves, and they take their affairs up in the Chinese Six Companies and settle them there, having the pros and cons of the different matters presented. The system there is that when a complaint is presented, it is referred to the officials who come from that part of China that these people come from; they come from the Ning Ying district, which is the most populous one there, and of which this defendant was the secretary; the matter in dispute is referred to the company and they report back to the parent body, and the parent body imposes its determination upon

them. The officers of this company are known as Chinese officials; the presidents come from China. They are admitted upon official papers, and usually a letter from the Chinese minister, stating that this man is president of a certain company, and an attache of the Chinese [34] Consul at San Francisco; they are admitted through the immigration channels here upon that. The secretaries of these companies are usually appointed in San Francisco because they endeavor to get some one who speaks the English language, so that they can come more in contact with the white people. These positions, both of president and secretary, are elective, that is, the Chinese people belonging to that particular district elect their president and their secretary, and that is confirmed by the Chinese Government in this way, that if the person elected as the president or the secretary is in China and is coming to this country, the Chinese Minister will give him a letter stating that he has been appointed. Upon the other hand, the president or the secretary elected resides here and his position is recognized by the Government by receiving him in that capacity and treating and dealing with him in that way. That is the way that is done. This particular defendant elected here was rated and received as such official by the Chinese Consul General, who appeared and testified for him. The president of his company came from China, and we had his letter from the minister here, presented it before the Commissioner solely for the purpose of enlightening the Court as to just what that letter or recognition of appointment would

show. That was the only purpose of it. It only has an indirect bearing upon the defendant, because he, living in this country at the time of his election and recognition, there would be no necessity for such a letter being sent to him. It was simply for the purpose of showing then what that letter from the minister would show that it was presented to the Commissioner, for such light as it would throw upon the inquiry. I can get that certificate, and I would like to present it, or have it read into the record; so, in determining the matter, your Honor can see just what this certificate sets forth. I really do not see what objection the Government could have to that. I have made the statement [35] with respect to the reasons why I desire to present this certificate, so the Court may see just what it sets forth.

Mr. HETTMAN.—I would like to make a reply to your statement. We can stipulate as to those things. The facts of this case, if your Honor please, are that this Chin Dock Sue came to the United States in 1908 and applied for admission, and at that time he was refused admission on the ground that he was a laborer, and was ordered deported. This case was appealed to the Secretary of Commerce and Labor, and the Secretary sustained the Immigration Department, and while the defendant was in one of the detention sheds at the ferry, he escaped. Subsequent to this case, he acquired a mercantile status, and he was arrested then in 1913—in the year 1913, he was charged in this court with Tom Jung Ching for a conspiracy to smuggle Chinese into the country, and at that time his identity was discovered; it was learned

that he was the same Chin Doek Sue who had escaped from this shed. The Immigration authorities then took him into custody and said under this old order of deportation he was still subject to be deported, he had escaped, and the mere fact he had been at large since 1908 was immaterial. Mr. McGowan then appeared and asked for an appeal over there at the Immigration station, and they refused to allow the appeal on the ground that he was an applicant for admission. Then Mr. McGowan sued out a writ of *habeas corpus*; that was on January 27, 1914, and your Honor ruled that he had been in the country at large for five years, and should be entitled to a hearing before the United States Commissioner; and so he was duly arrested in January, 1914, upon a warrant signed by an immigration inspector, and this complaint before Commissioner Krull was finally amended. The matter came on for hearing and at several hearings briefs were filed. Mr. McGowan filed an opening brief; we filed our brief, and he [36] filed a reply, and the Commissioner filed his opinion, and also his decree, ordering this alien deported, and the matter then came on appeal to this Court.

Now, all these matters, all these papers, filed before the Commissioner are in evidence before your Honor here. The entire record has been set up, including the decisions and the briefs, and the Government is willing to simply submit the matter upon these records and briefs and everything as it appeared before the Commissioner. Mr. McGowan wishes in addition to file a certificate from certain Chinese officials showing that this alien has acquired an exempt status, and

that he is an official in a Chinese benevolent society, and duly appointed by the Chinese consul. Now, as to just what this certificate would show, or as to how relevant it would be, I cannot say, but it appears to me that this man, being simply a secretary and was appointed subsequent to his order of deportation, that this is simply a point of law as to whether or not he can acquire an exempt status while he was under an order of deportation; while an alien woman who is ordered deported, and pending her deportation she married an American citizen that can defeat the order of deportation. This is a matter of record, that this man is secretary of a benevolent society, but he was not appointed by officers in China. He did not come from China with credentials as an official duly appointed should come, but was simply made a secretary of the Chinese Benevolent Society subsequent to his order of deportation; and these certificates that might be filed now I do not think would be relevant, but if it is a matter of enlightenment to the Court I do not suppose there would be any harm in filing them. In addition to the cases cited in our brief, which is in the record here, I wish to call your Honor's [37] attention to the case of *Ex parte Chin Fong*, 213 Fed., at page 288, which was decided by your Honor April 17, 1914. That was a case in which an alien subsequent to his surreptitious entry into this country acquired a mercantile status. The matter was fully decided by your Honor that such an alien could not acquire a mercantile status that would prevent his deportation. We are

willing that the matter be submitted as the record stands.

Mr. McGOWAN.—The point involved is a little more extensive, it seems to me. This defendant entered the United States a matter of thirty-four years ago. He entered lawfully and in compliance with all the laws of this country. He secured a certificate of registration. He describes himself as a Chinese person other than a laborer, giving his occupation as a pawn-broker. This defendant wanted to go to China; he was a man of property; he had a number of vegetable garden interests in and about Los Angeles that were worth upwards of \$1,000; he had money invested in pawn shops; he had money in drug-stores, and altogether his holdings amounted to almost \$10,000. He wanted to go to China. He made application to depart as a laborer. There has been a great deal of confusion in the rulings of the Department. They have held, at one time, that they could go and come as merchants. Then they changed and held that a restaurant-keeper is not a merchant, and that a pawn-broker is not a merchant, because they are not engaged in buying and selling merchandise, and that they should not be classed as merchants. This defendant made application to depart as a laborer because a pawn-broker was not classed as a merchant. He filed an application to depart in which it was set forth that he had a wife living in this country, which is one ground, and also set forth that he had property interests in this country, which is another ground to give a laborer the right to go and come. He presented his laborer's [38] departure certificate to

the Deputy Collector of Customs. He examined it and approved his application to depart. When he came to San Francisco and sought to depart he was confronted with the situation where the Department had ruled that a Chinese person registered other than a laborer, as he was, could not depart as a laborer. That ruling has subsequently been changed, and now a person who is registered, irrespective of what his registration certificate shows as to his status at that time, may depart as a laborer upon meeting the qualifications which the law requires. So this man seeking to comply with that law was denied his application upon the ground that he should have been registered as a person other than a laborer, and so his application to depart as a laborer was denied. He returned to Los Angeles and subsequently attempted to go to China as a merchant. He departed and came back. His absence from the United States, counting the time the ship left Honolulu was a little short of one year, which is within the time that a laborer may come and go. He returned to San Francisco. His case was heard and a vast amount of evidence was produced against him under circumstances which, he has always alleged, constitute conspiracy to keep him out of the country. The proper authorities heard his case and denied it. An appeal was taken to the Department and the appeal was dismissed. I appeared as attorney for the man in that proceeding, although of course I did not know him. During the pendency of that matter representations were made to me that he had been victimized, that a conspiracy existed to keep him out of the country by someone who had run

away with his wife during his absence in China and by persons who owed him money. A petition for rehearing was filed which was in process of examination and determination. [39] This man during all these months was in detention. One night seven or eight or nine Chinese walked out, and he stayed there and watched them go. His detention lasted quite a long period after that, and he feeling that he could not get justice, another night came along and some seventeen Chinese went out, and the next morning he was not present at roll-call. That was in 1908. This defendant bought a business at sheriff's sale in San Luis Obispo, and went there and remained there as a merchant for two and one-half years engaging in business immediately after his escape. He was there in perfect security until one day the immigration authorities got word of the fact through some sort of anonymous letters and he had to leave in a hurry. He came to San Francisco and became a merchant here, and he was in business for a matter of three and one-half years. Now, an inspection of this man—a personal inspection as well as an inspection of the evidence—will show that this man does not belong to the laboring class; I don't suppose he has labored in probably twenty or thirty years. He was elected as a Chinese official and it is contended that this official status exempts him from this deportation proceeding.

(Thereupon counsel discussed the Immigration Acts.) [40]

(Copy of Certificate:)

“LEGATION OF CHINA,
WASHINGTON.

No. 216.

To all to whom these presents shall come, Greeting:

Whereas Mr. Lee Yew Bong is about to proceed from his home in China to the port of San Francisco, California, accompanied by his body servant, Lee Chock Yuen, for the purpose of filling the office of President of the Ning Yang Association, one of the Chinese Benevolent Associations, and Ex-Officio member of the Advisory Board of the Chinese Consulate General at the said port.

These are, therefore, to request all Customs and Immigration Officers whom it may concern, to permit the said Lee Yew Bong with his body-servant to pass freely and safely without let or hinderance, and, in case of need, to give him all friendly aid and protection.

Given under my hand and the seal of the Legation at the City of Washington, June 20, 1913.

[Seal]

CHANG YIN TANG,
The Minister of China.

All father
13486/6-5
S. F. 6-22-14

13794

and 10-14 ”

(Attorney's Note:) The sets of figures at the bottom of this certificate indicate from information

given to me by Charles B. Mayer, an Immigration [41] Inspector, that the holder of this certificate has had two sons landed in the United States; the first Lee Fook Lin arrived on the Steamer "Manchuria" September 17, 1914, and was landed as an official son October 1, 1914; the second, Lee Toy Lin, arrived on the steamer "Siberia" June 13, 1914, and was landed as an official son June 26, 1914; that the criminal prosecution which was instituted against this defendant, and which was mentioned by Mr. Hettman in his presentation of the matter to the Court, was subsequently dismissed upon the motion of the defendant's counsel.

[Endorsed]: Presented in Open Court and Filed by Order Thereof *Nunc Pro Tunc* as of May 15, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [42]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 5,493.

UNITED STATES OF AMERICA,

vs.

GIN DOCK SUE.

Opinion and Order Affirming Order of Deportation.

JOHN W. PRESTON, Esq., United States Attorney, and CASPAR A. ORNBAUM, Esq., Assistant United States Attorney, Attorneys for the United States.

GEORGE A. MCGOWAN, Esq., Attorney for Gin Dock Sue.

In July, 1908, Gin Dock Sue applied for admission at the port of San Francisco as a returning Chinese merchant. On August 26th, 1908, his application to land was denied, and on appeal the order denying his application was affirmed. He then applied for a rehearing, but on November 26th, 1908, and before such application was heard, he escaped from the detention quarters and has ever since been within the United States. On December 8th, 1908, his application for a rehearing was denied by the following order:

“San Francisco, Dec. 8, 1908.

“This man escaped from Pacific Mail Steamship dock and is a fugitive. Application for rehearing denied.”

Having been later found in this country he was arrested and after a hearing before the Commissioner was ordered deported. From the order of deportation an appeal was taken to this Court. It is urged here, as it was urged before the Commissioner, that respondent is a merchant, and [43] that he is an attachee of the Chinese Consular office in San Francisco. But whatever status he may have as an attache of the Consulate has been acquired since his

escape from the immigration officers in 1908. I do not think that this method of entry into the country can be cured by thereafter becoming attached to a consular or other office. As to his mercantile status, if it existed before his escape, that was a matter to be established regularly before the immigration officers at the time that he applied to enter. If their proceedings were unfair in the investigation of that question he might then have appealed to the courts. Instead of doing so he chose to enter the country by escaping from custody. If the status was acquired after such escape, he can no more be heard to urge it here as giving him a right to remain in this country than he can be heard to urge his connection with the Consulate. The law will not put such a premium upon surreptitious entries into the country as to permit one so entering to acquire a right to remain. The order of deportation is therefore affirmed.

October 8th, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Oct. 8, 1915. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [44]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 5,493.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant.

**Stipulation as to Ultimate Facts Appearing from
Immigration Record.**

It is hereby stipulated and agreed by and between the respective parties in the above-entitled cause that the ultimate facts as shown by the record of the Commissioner of Immigration at the port of San Francisco in said cause are as follows:

That on July 9, 1907, defendant departed from the United States for China;

That on July 14, 1908, the defendant returned to the United States from China, applying for admission under the name of *Yeung Lung Soo*, at the port of San Francisco, as a returning Chinese merchant of the firm of Dan Saw Hong Company, 306 Marchessault Street, Los Angeles, California;

That on August 26, 1908, defendant was denied admission into the United States by the Commissioner of Immigration for the port of San Francisco;

That on October 1, 1908, defendant's appeal from the excluding decision of the said Commissioner of

Immigration was dismissed by the Secretary of Labor;

That on November 4, 1908, defendant's attorneys applied to the said Commissioner of Immigration for a reopening of the case, certain affidavits being filed in support of said application; [45]

That on November 28, 1908, the defendant escaped from the custody of the Pacific Mail Steamship Company, at San Francisco, California, which Company had brought the defendant to the port of San Francisco, California, from China, on July 14, 1908, and which Company had held him in custody awaiting the determination of his application for admission into the United States.

That pursuant to the said application for a reopening of the case made by defendant's attorneys on November 4, 1908, said Commissioner of Immigration referred the matter of said application for reopening to the Immigration officials at Los Angeles, California, for investigation;

That on December 3, 1908, the said Commissioner of Immigration received a report from the said Immigration officials at Los Angeles, California, upon their investigation made pursuant to the said application for reopening;

That on December 8, 1908, the said Commissioner of Immigration made the following entry in the record of the matter of the said application of the defendant for admission into the United States;

“San Francisco, Dec. 8, 1908.

This man escaped from the Pacific Mail Steamship Company, and is a fugitive—application for a rehearing denied.

H. H. NORTH,
Commissioner.”

And it is further stipulated and agreed by and between the respective parties in the above-entitled cause and their attorneys that the facts as herein set out are the ultimate facts as shown by said record of the Commissioner of Immigration, Port of San Francisco, and are to be considered by the United States Circuit Court of Appeals on the appeal taken herein.

JNO. W. PRESTON,
U. S. Attorney.
CASPAR A. ORNBAUN,
Asst. U. S. Attorney.
GEO. A. McGOWAN,
Attorney for Gin Dock Sue.

[Endorsed]: Filed Jan. 18, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [46]

*In the District Court of the United States, in and for
the Northern District of the State of California,
Divison Number One.*

No. 5,493.

UNITED STATES OF AMERICA,

vs.

Plaintiff,

GIN DOCK SUE,

Defendant.

**Stipulation and Order Approving Statement of the
Case and Agreed Statement of Facts with Re-
spect Thereto.**

It is hereby stipulated and agreed by and between the counsel for the respective parties hereto that the transcript of the hearing had on May 13th, 1915, in the above-entitled matter, as the same has been transcribed and filed in the above-entitled matter, together with the exhibits therein filed and introduced in evidence, or copies of the said exhibits, do and shall constitute the agreed statement of facts, or statement of the case in the above-entitled matter, and we hereby agree to the statement and the allowance and approval of the same by the Judge of the above-entitled court. It is further stipulated and agreed that the defendant and appellant in this matter is variously referred to in the papers on file herein as Gin Dock Sue, Gin Soo and Young Lung Soo; the family name of the defendant as spelled in the transcript, "Chin," is a phonetical error, the correct spelling of the defendant's family name being "Gin."

Dated at San Francisco, California, January 18th, 1916.

GEO. A. MCGOWAN,
Attorney for Defendant.

JNO. W. PRESTON,
United States Attorney.

Order.

Upon reading and filing the foregoing stipulation, it is hereby ordered that the statement of the case, or agreed statement of [47] facts as recited in the

foregoing stipulation is hereby settled and allowed and approved.

Dated at San Francisco, California, January 19th, 1916.

M. T. DOOLING,
United States District Judge.

[Endorsed]: Filed Jan. 19, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [48]

*In the District Court of the United States, in and
for the Northern District of the State of Cali-
fornia, Division Number One.*

No. 5493.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant.

Notice of Appeal.

To the Clerk of said Court and to the Honorable
JOHN W. PRESTON, Esquire, United States
Attorney for the Northern District of Cali-
fornia.

You and each of you will please take notice that
the above-named defendant, Gin Dock Sue, defend-
ant and appellant, hereby appeals to the United
States Circuit Court of Appeals for the Ninth Cir-
cuit, from the order confirming the judgment and
order of deportation made and entered herein on the
8th day of October, A. D. 1915.

Dated at San Francisco, Cal., January 18th, A. D. 1916.

GEO. A. McGOWAN,
Attorney for Gin Dock Sue, Defendant and Appel-
lant. [49]

*In the District Court of the United States, in and
for the Northern District of California, Division
Number One.*

No. 5493.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

GIN DOCK SUE,
Defendant.

Petition for Appeal.

Comes now Gin Dock Sue, defendant and appel-
lant herein, and says:

That on the 8th day of October, A. D. 1915, the
above-entitled court made and entered its order con-
firming the judgment and order of deportation
herein, in which said order and the judgment and
order of deportation herein and the proceedings had
prior thereunto in the above-entitled cause certain
errors were committed to the prejudice of this de-
fendant and appellant, all of which will appear more
in detail from the assignment of errors which is filed
herewith and the statement of the case and the agreed
statement of facts heretofore settled, approved and
allowed.

WHEREFORE, this appellant prays that an ap-

peal may be granted in his behalf to the United States Circuit Court of Appeals for the Ninth Circuit, for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in the above-entitled action, duly authenticated, may be sent and transmitted to the said Circuit Court of Appeals for the Ninth Circuit.

Dated at San Francisco, Cal., this 18th day of January, 1916.

GEO. A. MCGOWAN,
Attorney for Gin Dock Sue, Defendant and Appel-
lant. [50]

*In the District Court of the United States, in and for
the Northern District of California, Division
No. 1.*

No. 5493.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
GIN DOCK SUE,
Defendant.

Assignment of Errors.

Comes now Gin Dock Sue, defendant and appellant herein, by his attorney, Geo. A. McGowan, Esq., and in connection with his petition for an appeal herein, assigns the following errors, which he avers occurred upon the trial or hearing of the above-entitled cause, and upon which he will rely upon appeal to the Circuit Court of Appeals for the Ninth Circuit, to wit:

First. That the District Court erred in holding that the judgment and order of deportation made and entered in said matter, was not contrary to law.

Second. That the District Court erred in holding that the judgment and order of deportation made and entered herein was not contrary to the evidence.

Third. That the District Court erred in holding that the judgment and order of deportation, made and entered herein, was supported by the evidence.

Fourth. That the District Court erred in holding that the defendants status as a Chinese official, an attache of the Chinese Consular office in San Francisco, could not be urged upon his behalf in said proceeding because acquired after a clandestine entry.

Fifth. That the District Court erred in not holding that the defendant's status as a Chinese official, an attache of the Chinese Consular office in San Francisco, was a bar to his deportation as [51], sought herein and that as such Chinese official, as aforesaid, he was exempt from the statutes under which the order of deportation herein was made and entered.

Sixth. That the District Court erred in holding that the defendant's mercantile status, as acquired and continued since his clandestine entry, could not be urged upon his behalf in said proceeding.

Seventh. That the District Court erred in not holding that the defendant's status as a merchant for upwards of six years last past was not a bar to his deportation as sought herein.

Eighth. That the District Court erred in not holding that the expiration of the three year limi-

tation after the clandestine re-entry of the defendant into the United States, was a bar to his subsequent deportation, he being a merchant and a Chinese official and at all times, a person other than a laborer.

WHEREFORE, the said Gin Dock Sue prays that the judgment and order of the said United States District Court, in and for the Northern District of the State of California, made and entered herein in the office of the clerk of the said court on the 8th day of October, A. D. 1915, affirming the judgment and order of deportation of the Hon. Francis Krull, United States Commissioner in and for the Northern District of California, made and entered in the office of said Commissioner on the 23d day of May, A. D. 1914, ordering the deportation of the said Gin Dock Sue to China, be reversed, and that this case be remitted to the said lower court with instructions to discharge the said Gin Dock Sue from custody, or grant him a new trial herein.

Dated at San Francisco, California, January 18th, A. D. 1916.

GEO. A. McGOWAN,
Attorney for Defendant and Appellant Gin Dock
Sue. [52]

Due service of the within Notice of and Petition for Appeal and Assignment of Errors and receipt of a copy thereof is hereby admitted this 18th day of January, A. D. 1916.

JNO. W. PRESTON,
U. S. Atty.

[Endorsed]: Filed Jan. 18, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [53]

*In the District Court of the United States, in and
for the Northern District of the State of Cali-
fornia, Division Number One.*

No. 5493.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant.

Order Allowing Petition for Appeal.

On this 19th day of January, A. D. 1916, came Gin Dock Sue, the defendant and appellant herein, by his Attorney, Geo. A. McGowan and filed herein and presented to this Court his petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, intended to be urged and prosecuted by him, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent and transmitted to the United States Circuit Court of Appeals for the Ninth Circuit, and that such order and further proceedings may be had in the premises as may seem proper.

On consideration whereof, the Court hereby allows the appeal hereby prayed for, and orders execution and remand stayed pending the hearing of the said case in the said United States Circuit Court of Ap-

peals for the Ninth Circuit, and it is further ordered that the said defendant and appellant may remain at large on bail on the bond previously given in this matter, and render himself in execution of whatever judgment may finally be entered herein.

Dated at San Francisco, California, January 19, 1916.

M. T. DOOLING,
District Judge.

[Endorsed]: Filed Jan. 19, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [54]

Citation on Appeal.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to the United States of America, and to JOHN W. PRESTON, Esq., United States Attorney in and for the Northern District of California, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, First Division, wherein Gin Dock Sue is appellant, and you are appellee, to show cause, if any there be why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be cor-

rected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, First Division, this 7th day of April, A. D. 1916.

M. T. DOOLING,
United States District Judge.

Receipt of a copy of within citation is hereby admitted this 7th day of April, 1916.

JNO. W. PRESTON,
U. S. Attorney.

Copy of the within Citation on Appeal lodged with the undersigned, Clerk of the United States District Court for the Northern District of California, First Division, this 7th day of April, 1916.

W. B. MALING,
Clerk.

C. W. Calbreath,
Deputy.

[Endorsed]: Filed Apr. 7, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [55]

*In the District Court of the United States, in and for
the Northern District of the State of California,
Southern Division, Div. No. One.*

No. 5493.

UNITED STATES OF AMERICA,
Plaintiff and Appellee,
vs.
GIN DOCK SUE,
Defendant and Appellant.

Cost Bond on Appeal.**MASSACHUSETTS BONDING AND INSURANCE COMPANY.**

KNOW ALL MEN BY THESE PRESENTS, That we, Gin Dock Sue, as principal, and Massachusetts Bonding and Insurance Company, as sureties, are held and firmly bound unto the United States of America in the full and just sum of five hundred (500) dollars, to be paid to the said United States of America, its certain attorney, executors, administrators or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 18th day of August, in the year of our Lord one thousand nine hundred and sixteen.

WHEREAS, lately at a District Court of the United States for the Northern District of California, First Division, in a matter pending in said court, in which said Gin Dock Sue was the defendant and appellant a judgment was rendered against the said Gin Dock Sue, and the said Gin Dock Sue having obtained from said court an order allowing an appeal to reverse the judgment [56] in the aforesaid matter, and a citation directed to the United States of America, through John W. Preston, United States District Attorney for the Northern District of California, citing and admonishing it through its said attorney to be and appear at a United States

Circuit Court of Appeals for the Ninth Circuit to be holden in the City of San Francisco, in the State of California, within thirty days from the date thereof, to wit, April seventh, in the year of our Lord nineteen hundred sixteen.

NOW, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the said Gin Dock Sue shall prosecute said appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

GIN DOCK SUE. (Seal)

MASSACHUSETTS BONDING AND INSURANCE COMPANY. (Seal)

By JOHN H. ROBERTSON, (Seal)

Its Attorney in Fact.

Attest: FRANK M. HALL, (Seal)

Attorney in Fact.

Acknowledged before me the day and year first above written, by Gin Dock Sue, the principal in and to the foregoing bond.

FRANCIS KRULL, (Seal)

United States Commissioner, North'n Dist. of California. [57]

State of California,

City and County of San Francisco,—ss.

On this 18th day of August, A. D. 1916, before me, Grace R. Schmitt, a notary public in and for the City and County of San Francisco, personally appeared John H. Robertson, Attorney in Fact, and Frank M. Hall, Attorney in Fact of the Massachusetts Bond-

ing and Insurance Company, to me personally known to be the individual and officers described in and who executed the within instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposeth and saith, that they are the said officers of the company aforesaid, and that the seal affixed to the within instrument is the corporate seal of said company, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco the day and year first above written.

[Seal]

GRACE R. SCHMITT,

Notary Public in and for the City and County of San Francisco, State of California.

Cost bond approved.

CASPER A. ORNBAUN,

Assist. U. S. Atty.

[Endorsed]: Filed Aug. 19, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [58]

*In the District Court of the United States, in and for
the Northern District of the State of California,
Southern Division, Div. No. One.*

No. 5493.

UNITED STATES OF AMERICA,

Plaintiff and Appellee,

vs.

GIN DOCK SUE,

Defendant and Appellant.

Stipulation and Order Regarding Original Exhibits.

It is hereby stipulated and agreed by and between the counsel for the respective parties hereto that Defendant's and Appellant's Original Exhibits, "B," and "C," may be withdrawn from the files of the office of the clerk in the above-entitled court, and presented and filed with a certified copy of this stipulation and order in the office of the clerk of the Circuit Court of Appeals in and for the Ninth Judicial Circuit, and when so presented and filed may be considered as part and parcel of the record on appeal in the above-entitled case as the same may be then and thereafter considered by the said United States Circuit Court of Appeals in and for the Ninth Judicial Circuit.

Dated San Francisco, Cal., August 19th, 1916.

JNO. W. PRESTON,

Attorney for Plaintiff and Appellee.

GEO. A. MCGOWAN,

Attorney for Defendant and Appellant.

Order.

Upon reading and filing the foregoing stipulation it is hereby ordered that the said exhibits therein mentioned may be withdrawn for the object and purpose as in said stipulation specified.

Dated San Francisco, Cal., August 19, 1916.

M. T. DOOLING,

United States District Judge. [59]

[Endorsed]: Filed Aug. 19, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [60]

Defendant's Exhibit "B"—Certificate of Residence.

No. 141274.

Original.

W. H. Dillard.

UNITED STATES OF AMERICA.**CERTIFICATE OF RESIDENCE.**

Issued to Chinese Person other than laborer, under the Provisions of Act of May 5, 1892, as amended by the Act approved November 3, 1893.

THIS IS TO CERTIFY, that GIN SOO, a Chinese Person other than Laborer, now residing at Los Angeles, Cal. has made application No. 1041 F to me for a Certificate of Residence, under the provisions of the Act of Congress approved May 5, 1892, as amended by the Act approved November 3, 1893, and I certify that it appears from the affidavit of witness submitted with said application that said GIN SOO was within the limits of the United States at the time of the passage of said Act, and was then residing at Los Angeles, Cal., and that he was at that time lawfully entitled to remain in the United States, and that

the following is a descriptive list of said Chinese Person other than Laborer, viz:

Name: GIN SOO.

Age: Twenty-six (26) years.

Local Residence: No. 318 Marchessault St., Los Angeles, Cal.

Occupation: Pawn-Broker.

Height: 5 ft. 5 in.

Color of Eyes: Brown.

Complexion: Fair.

Physical Marks or Peculiarities for Identification:

Scar on left eyebrow.

And as a further means of identification, I have affixed hereto a photographic likeness of said GIN SOO. [61]

Given under my hand and seal this twenty-third day of January, 1900, at San Francisco, State of California.

[Seal]

JNO. C. LYNCH,

Collector of Internal Revenue, First District of California.

(Chinese Picture With Number 141,274 and Name Gin Soo, Thereon.)

[Written across face of above]: Issued in lieu of original certificate of residence Nos. 82,541 and 138,680 lost. Proof of said loss now on file in this office.

JNO. C. LYNCH,

Collector.

[Endorsed]: U. S. Dist. Court No. 5493. U. S. v. Chin Dock Sue. Deft. Exhibit No. "B." LSM. May 13, 1915. [62]

Defendant's Exhibit "C"—Certificate of Registration.

Hon. Collector of Customs:

Sir: I hereby certify that the registration certificate hereto attached and numbered 141,274, is genuine, as proven by comparison with the records on file in this office.

[Seal]

M. LICHTENSTADTER,
Deputy Collector Internal Revenue, First District
California. [63]

To the Honorable Collector of Customs, District of
Los Angeles, California.

Sir: I respectfully apply for a Certificate of Departure as provided for under the Act of September 13th, 1888, and the Treaty between the United States of America and the Empire of China, signed March 17th, 1894, as I am a Chinese laborer residing in the United States and in the City of Los Angeles, State of California, with my wife, Young Shee, Shiu Fung, and have property therein of the value of \$1,000.00 or debts of like amount due me and pending settlement, as hereinafter set forth.

My property hereinafter set forth is *bona fide*, and not colorably acquired for the purpose of evading said Act. The debts due me hereinafter set forth are unascertained and unsettled, and not promissory notes or other similar acknowledgments of ascertained liability.

At least a month from date hereof I intend to depart to China via the Port of San Francisco with the

intention of returning via said Port within one year from such date of departure.

(Chinese picture.)

My photograph hereto attached is a correct and faithful likeness of me.

My description is as follows:

Name, GIN SOO.

Age, Thirty-five years.

Local Residence, Los Angeles, Cal.

Occupation, Cigar Vendor.

Height, 5 ft. 5 in.

Color of eyes, Brown.

Complexion, Fair.

Physical Mark: Scar on left eye-brow.

[Seal]

WM. S. WATERS,

Deputy Collector. [64]

Weight at present, 183 lbs.

Certificate of Residence, No. 141274.

Issued at San Francisco, Cal. January 23, 1900, in lieu of original Certificates Nos. 82541 and 138680.

DESCRIPTION OF PROPERTY OWNED BY
APPLICANT AND FAMILY OF SAME.

An undivided interest in QUONG HOP COMPANY, a vegetable garden, in Los Angeles County, California, being land leased from B. T. Rozelle of Compton, Los Angeles County, Cal. The amount of said interest being over \$1000.00.

Respectfully yours,

GIN SOO.

Subscribed and sworn to before me, this 21 day of January, A. D. 1903.

WM. S. WATERS,
Deputy Collector.

Custom-House, District of Los Angeles, California.

I HEREBY CERTIFY that after a thorough examination I am satisfied that the foregoing applicant is registered; that his foregoing statements are true; that the photograph hereto attached is a correct and faithful likeness of him, and that his height, weight and description of physical marks are accurately given.

WITNESS my hand and official seal this 11 day of Feby., A. D. 1903.

WM. S. WATERS,
Deputy Collector. [65]

[Endorsed]: U. S. Dist. Court No. 5493. U. S. v. Chin Dock Sue, Deft. Exhibit No. C. LSM. Deputy Clerk. May 13, 1915. [66]

*In the District Court of the United States, in and for
the Northern District of California, Division
Number One.*

UNITED STATES,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant and Appellant.

**Order Extending Time Thirty Days from and After
May 6, 1916, to Docket Cause.**

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the defendant and appellant herein, it is hereby ordered that the time within which the above-entitled case may be docketed in the office of the clerk of the United States Circuit Court of Appeals, in and for the Ninth Circuit, may be and the same is hereby extended for the period of thirty (30) days from and after the date hereof.

Dated San Francisco, California, May 6th, 1916.

M. T. DOOLING,
U. S. District Judge.

Service of the within order and receipt of a copy thereof is hereby admitted this 6th day of May, 1916.

JNO. W. PRESTON,
U. S. Attorney.

[Endorsed]: Filed May 6, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [67]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Monday, the 5th day of June, in the year of our Lord, one thousand nine hundred and sixteen. PRESENT: The Honorable MAURICE T. DOOLING, District Judge.

No. 5493.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant and Appellant.

**Order Extending Time Thirty Days from and After
June 5, 1916, to Docket Cause.**

In this matter on motion of Geo. A. McGowan, Esq., Attorney for the petitioner and appellant herein, the Court ordered that the time within which the above entitled case may be docketed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, may be and the same is hereby extended for the period of thirty (30) days from and after the date hereof. [68]

*In the District Court of the United States, in and for
the Northern District of California, Division
Number One.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant and Appellant.

**Order Extending Time Thirty Days from and After
July 1, 1916, to Docket Cause.**

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the de-

defendant and appellant herein, it is hereby ordered that the time within which the above-entitled case may be docketed in the office of the clerk of the United States Circuit Court of Appeals, in and for the Ninth Circuit, may be and the same is hereby extended for the period of thirty (30) days from and after the date hereof.

Dated San Francisco, California, July 1st, 1916.

M. T. DOOLING,
U. S. District Judge.

Service of the within order and receipt of a copy thereof is hereby admitted this 1st day of July, 1916.

JNO. W. PRESTON,
U. S. District Attorney.

[Endorsed]: Filed Jul. 31, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [69]

*In the District Court of the United States, in and for
the Northern District of California, Division
Number One.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GIN DOCK SUE,

Defendant and Appellant.

**Order Extending Time Thirty Days from and After
July 31, 1916, to Docket Cause.**

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the defendant and appellant herein, it is hereby ordered

that the time within which the above-entitled case may be docketed in the office of the clerk of the United States Circuit Court of Appeals, in and for the Ninth Circuit, may be and the same is hereby extended for the period of thirty (30) days from and after the date hereof.

Dated San Francisco, California, July 31st, 1916.

WM. M. MORROW,

U. S. Circuit Judge, now Presiding in the Above-entitled Court.

The foregoing order is hereby agreed to.

JOHN W. PRESTON,

United States Attorney.

C. G. H.

Service of the within order and receipt of a copy thereof is hereby admitted this 31st day of July, 1916.

JOHN W. PRESTON,

U. S. Attorney.

C. G. H.

[Endorsed]: Filed Jul. 31, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [70]

In the District Court of the United States, in and for the Northern District of the State of California, Southern Division, Div. No. One.

No. 5493.

UNITED STATES OF AMERICA,

Plaintiff and Appellee,

vs.

GIN DOCK SUE,

Defendant and Appellant.

**Order Extending Time Six Days from and After
August 30, 1916, to Docket Cause.**

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the petitioner and appellant herein, it is hereby ordered that the time within which the above-entitled case may be docketed in the office of the clerk of the Circuit Court of Appeals, in and for the Ninth Judicial Circuit, may be and the same is hereby extended for the period of six days from and after the date hereof.

Done in open court this 30th day of August, A. D. 1916.

M. T. DOOLING,
United States District Judge, now Presiding in the
Above-entitled Court.

The foregoing extension is hereto consented to.

JNO. W. PRESTON,
United States Attorney.

Due service and receipt of a copy of the within order is hereby admitted this 30 day of Aug., 1916.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Plaintiff.

[Endorsed]: Filed Aug. 30, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [71]

Certificate of Clerk U. S. District Court as to Transcript on Appeal.

I, W. B. Maling, Clerk of the District Court of the United States of America for the Northern District

of California, do hereby certify that the foregoing 71 pages, numbered from 1 to 71, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the case of The United States vs. Gin Dock Sue, No. 5493, as the same now remain on file and of record in the office of the clerk of said District Court; said Transcript having been prepared pursuant to and in accordance with the "Praecipe" (a copy of which is embodied in this Transcript), and the instructions of the attorney for defendant and appellant herein.

I further certify that the costs for preparing and certifying the foregoing Transcript on Appeal is the sum of thirty-one dollars and ninety cents (\$31.90) and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the Original Citation on Appeal issued herein (page 73).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 30 day of August, A. D. 1916.

[Seal]

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Cancelled
8/30/16. C. W. C.] [72]

Citation on Appeal.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to the United States of America, and to JOHN W. PRESTON, Esq., United States Attorney in and for the Northern District of California, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal of record in the clerk's office of the United States District Court for the Northern District of California, First Division, wherein Gin Dock Sue is appellant and you are appellee, to show cause if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, First Division, this 7th day of April, A. D. 1916.

M. T. DOOLING,
United States District Judge. [73]

[Endorsed]: No. 5493. United States District Court for the Northern District of California, First Division. Gin Dock Sue, Appellant, vs. The United

States, Appellee. Citation on Appeal. Filed Apr. 7, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

Receipt of a copy of within citation is hereby admitted this 7th day of April, 1916.

JNO. W. PRESTON,

U. S. Attorney.

Copy of the within Citation on Appeal lodged with the undersigned, Clerk of the United States District Court for the Northern District of California, First Division, this 7th day of April, 1916.

W. B. MALING,

Clerk.

C. W. Calbreath,

Deputy.

[Endorsed]: No. 2858. United States Circuit Court of Appeals for the Ninth Circuit. *Gin Dock Sue*, Appellant, vs. The United States of America, Appellee. Transcript of the Record. Upon Appeal from the United States District Court for the Northern District of California, First Division.

Filed September 5, 1916.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,

Deputy Clerk.